IN THE HIGH COURT OF JUDICATURE AT BOMBAY

APPELLATE SIDE

Criminal Revision Application No. 264 of 2005

Hasmukh K. Shah & anr. Applicants

Vs.

State of Maharashtra Respondent

And

Kanan F. Rawal Intervener

Mr.Abdul Kader Millwala i/b. Mr.Girish Kulkarni for applicants.

Ms.M.H.Mhatre, APP for State.

Mr.Jayesh Bhatt for Intervener.

CORAM: B.H.MARLAPALLE,J.

January 24, 2007.

P.C.

. The parties, during the pendency of this Criminal Revision Application, have compromised and the Consent Terms have been placed before me today. The compromise has been signed by the parties concerned as well as their learned Advocates. The same is marked as "X" for identification.

. Clause (1) of the Consent Terms signed between

the parties on 22/12/2006 reads as under:

> "Agreed, confirmed and declared that Parties hereto being next door neighbours desire to live peacefully hereafter. The parties have therefore decided to settle, withdraw or compound all their pending cases in various Civil as well as Criminal Courts. The parties agree that hereafter they shall not interfere in personal life and affairs of each other."

. Criminal Application No.5279 of 2005 has been filed by one Mrs.Kanan Rawal praying for intervention and she has been allowed to be impleaded as intervener in this Criminal Revision Application. The said Mrs.Rawal had lodged a complaint with the police for an offence punishable under Section 324 read with Section 34 of IPC against the present applicants and consequently Criminal Case No.213/P/2003 filed by the State i.e. V.P. Marg Police Station came to be registered against the present applicants. The case was thereafter committed to the Sessions Court and registered as Sessions Case No.26 of 2005. The accused had filed an application at Exhibit 4 before the Sessions Court

for remanding the case to the learned Metropolitan Magistrate's 40th Court, Girgaum, Mumbai as the complaint as it is did not make out a case for an offence punishable under Section 307 of IPC. This application has been rejected by the impugned order dated 22/7/2005.

. The learned counsel for the intervener - original complainant has supported the plea of the accused that in the original complaint there was no case of any allegations amounting to an offence punishable under Section 307 read with Section 34 of IPC and, therefore, the application at Exhibit 4 filed by the accused was required to be allowed. In any case the parties have already settled their civil and criminal disputes and, therefore, there is no harm in holding that the case was required to be remitted back to the learned Metropolitan Magistrate's 40th Court, Girgaum, Mumbai. This criminal revision application, therefore, succeeds and the same is hereby allowed. The impugned order dated 22/7/1995 is hereby quashed and set aside and the application at Exhibit 4 filed by the accused in Sessions Case No.26 of 2005 stands allowed.

. In view of the Consent Terms between the parties and clause no.1 quoted hereinabove, C.C. No.213/P/2003, Metropolitan Magistrate's 40th Court, Girgaum, Mumbai stands compounded and the complaint filed by the intervener accordingly stands withdrawn.

. Certified copy is expedited.

(B.H.MARLAPALLE,J.)